

## REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on August 29, 2007, the Examiner rejected claims 21-29, 32-38, and 40-43 under 35 U.S.C. 103(a) as being unpatentable over Evans (United States Patent No. 5,924,074, hereinafter “Evans”), Feldon et al. (United States Patent No. 5,732,221, hereinafter “Feldon”), Lavin et al. (United States Patent No. 5,772,585, hereinafter “Lavin”), and Provost et al. (United States Patent No. 6,341,265, hereinafter “Provost”) and further in view of Lancelot et al (United States Patent No. 6,434, 531, hereinafter “Lancelot”).

Applicant expresses appreciation for the telephonic Examiner’s Interview that was conducted on February 12, 2008, wherein the present invention was discussed in light of the art of record. Accordingly, Applicant respectfully provides the following:

The Supreme Court in *KSR v. Teleflex*, 550 U.S. \_\_\_, 127 S. Ct. 1727 (2007) held that the factors a court will look at when determining obviousness and non-obviousness in the United States, are those factors outlined by the Supreme Court in *Graham et al. v. John Deere Co. of Kansas City et al.*, 383 U.S. 1 (1966), commonly referred to as the “Graham factors”. The court held that obviousness should be determined by looking at the four “Graham factors” including: 1) the scope and content of the prior art; 2) the level of ordinary skill in the art; 3) the differences between the claimed invention and the prior art; and 4) objective evidence of nonobviousness. In addition, the Court outlined examples of factors that show “objective evidence of nonobviousness.” These factors include: 1) commercial success; 2) long-felt but unsolved needs; and 3) failure of others.

“The legal concept of *prima facie* obviousness is a procedural tool [that] ... allocates who has the burden of going forward with production of evidence in each step of the examination

process.” MPEP §2142. “To reach a proper determination [of obviousness] under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical “person of ordinary skill in the art” when the invention was unknown and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention “as a whole” would have been obvious at that time to that person.” *Id.* “If the examiner determines there is a factual support for rejecting the claimed invention under 35 U.S.C. 103, the examiner must then consider any evidence supporting the patentability of the claimed invention, such as any evidence in the specification or any other evidence submitted by the applicant. The ultimate determination of patentability is based on the entire record, by a preponderance of evidence, with due consideration to the persuasiveness of any arguments and any secondary evidence.” *Id.*

Applicant respectfully submits that the references cited by the Examiner do not teach or suggest all of the claim limitations as provided in the claim set. As such, Applicant respectfully submits that the cited references do not make obvious the claims provided herein.

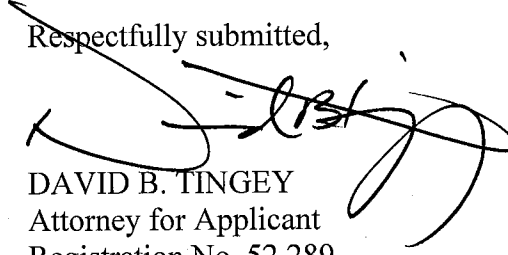
Thus, Applicant respectfully submits that for at least the reasons provided herein, the claim set as provided herein overcomes all rejections made by the Examiner in the Office Action.

CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 29<sup>th</sup> day of February, 2008.

Respectfully submitted,



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